

5  
2  
CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 825 OF 1994  
Cuttack this the 30th day of November /2000

Gobinda Baditya

...

Applicant(s)

-VERSUS-

Union of India & Others ...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

Somnath Som  
(SOMNATH SOM)  
VICE-CHAIRMAN  
30/11/2000

8

6

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.825 OF 1994  
Cuttack this the 30th day of November/2000

**CORAM:**

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN  
AND  
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

\*\*\*

Sri Gobinda Baditya, aged about 26 years,  
Son of Gouranga Baditya, Vill - Babanpur  
PO: Babanpur, PS: Babanpur, Dist: Ganjam

\*\*\*

**Applicant**

By the Advocates

M/s. Ganeswar Rath  
P.K. Mohapatra  
S.N. Mishra

-VERSUS-

1. Union of India represented by Secretary,  
Ministry of Health and Family Welfare,  
New Delhi
2. Director, Regional Leprosy Training and  
Research Institute, Aska, At/PO - Aska  
Dist - Ganjam

\*\*\*

**Respondents**

By the Advocates

Mr. U.B. Mohapatra  
Addl. Standing Counsel  
(Central)

-----  
O R D E R

MR. SOMNATH SOM, VICE-CHAIRMAN: In this Application the petitioner has prayed for quashing the termination order and to regularise his services and to allow him regular salary as admissible to his counter-part in regular Establishment of the Respondents.

*J.Som*  
Respondents have filed counter opposing the prayer of the applicant. For the purpose of considering this petition it is not necessary to go into too many facts of this case. The case of the applicant is that on being sponsored by the Employment Exchange he appeared at an interview and was selected, but was actually given appointment as Hostel Attendant on daily rated basis and was paid Rs.8.25 per day. He has stated that thus he has been engaged on daily rated basis from time to time and in this way he has

completed 240 days of service. But instead of conferring temporary status on him and regularising his services, Respondents in order dated 11.8.1988 (Annexure-4) have terminated his services. In the context of the above the applicant has come up with the prayers referred to earlier.

2. Respondents in their counter have stated that under the Director, Regional Leprosy Training & Research Institute, Aska (Respondent No.2) there is a hostel and the trainees are accommodated in the hostel during the period of training. On completion of the training the hostel remains vacant till the next training is taken up and the trainees occupy the hostel. During the period of training there was a need to have a Hostel Attendant and accordingly the applicant had been appointed from time to time on daily rated basis as Hostel Attendant and after the training was over his engagement has been terminated. Respondents have stated that there is no sanction post of Hostel Attendant in the Institute at any point of time. In 1986 to fill up some vacant posts of Peon and Ward Attendant in the Institute names were called for from the Employment Exchange and the name of the petitioner was forwarded by the Employment Exchange and he was considered in that selection, but he could not come out successful. Thereupon depending upon the need for having the services of Hostel Attendant, the applicant had been appointed from time to time during the period of training to perform the duties of the Hostel Attendant. To the averment of the applicant that one Gundu Nayak was initially engaged as casual worker much after him, but had been subsequently conferred with Temporary Status and had been regularised, respondents have stated that Gundu Nayak was appointed against a post of Safaiwalla

*J. Jam*

and the nature and duties of the post <sup>are</sup> totally different from responsibility of the applicant as a daily rated casual worker being the work of Hostel Attendant. On the above grounds Respondents have opposed the prayer of the applicant.

4. We have heard Shri S.Mishra, the learned counsel for the petitioner and Shri U.B.Mohapatra, the learned Additional Standing Counsel and also perused the records.

5. The first prayer of the applicant is for a declaration that termination of his services in order dated 11.8.1988 is illegal. As the applicant was engaged as a casual worker, law is well settled that a casual worker engaged in temporary work can be terminated if there is no need for his engagement. But at the time of such disengagement, principle of Last Come First Go should be observed. In the instant case the applicant has made no averment that while his services were terminated somehow <sup>were</sup> casual workers, juniors to him retained in service. Moreover, <sup>1/1/94</sup> his disengagement came in August/1988 and the applicant has challenged this by filing the Original Application almost six years thereafter in 1994. The contention of the applicant is that he came out successful in the selection for regular Group-D post but was appointed as daily rated casual worker has been denied by the Respondents in their counter, as noted by us above. This averment of the respondents have not been denied by the applicant by filing any rejoinder. In view of this it must be held that the applicant was never selected for any Group D post under the Establishment of Respondent No. 2.

As regards the prayer of the applicant for regularisation it has been submitted by Shri U.B.Mohapatra, the learned Addl. Standing Counsel that the scheme for conferment of Temporary Status

came into force with effect from 10.9.1993. The applicant had worked as daily rated casual worker in several spells from 18.11.1986 to 10.8.1988. Thus when the scheme for conferment of Temporary Status came into force the applicant was not in engagement under the Respondent No.2 as a casual worker. It has been submitted by the learned counsel for the petitioner Shri Mishra that the applicant should have been conferred Temporary Status in accordance with the earlier scheme of 1988 enclosed by the Respondents at Annexure-R/1. We have gone through the Scheme. This Scheme does not provide for conferment of Temporary Status. As the applicant was not in engagement under the Establishment of Respondent No.2 when the scheme dated 10.9.1993 came into force, he is not entitled to conferment of Temporary Status. Even under the Scheme dated 10.9.1993 a casual worker cannot be regularised straightforwardly. Firstly he has to be conferred with temporary status and thereafter he has to be regularised depending upon his seniority amongst temporary status workers against two of every three regular vacancies of Group D posts. As the applicant is not entitled to conferment of Temporary Status he cannot also claim that he should have been regularised in Group D post. Moreover, Respondents have pointed out and the applicant has not denied this that there is no post of regular Hostel Attendant till date. Initially for looking after the work in the hostel during the period of training a Hostel Attendant was to be engaged, but subsequently a decision has been taken to ask the trainees to manage the ~~mess~~ <sup>mess</sup> themselves and thereafter no Hostel Attendant has been engaged.

In view of the discussions held above, we hold that the applicant has not been able to make out a case for any of

10 12  
the reliefs prayed for. Original Application is, therefore, held to be without any merit and the same is rejected, but without any order as to costs.

(G.NARASIMHAM)  
MEMBER (JUDICIAL)

B.K.Sahoo//

(SOMNATH SOM)  
VICE-CHAIRMAN  
30/11/2010